IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Tr.P(C).No. 252 of 2007()

OS.123/2006 of III ADDL.SUB COURT, KOZHIKODE
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PETITIONER

SULOCHANA, W/O. LATE DAMODARAN,
AGED 76 YEARS, KEEZHILLATH HOUSE, PUTHIYARA,
CALICUT-673 004, KASABA AMSOM DESOM.

BY ADV. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENTS:
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1. SETHUMADHAVAN, S/O. SULOCHANA,
AGED 51 YEARS, E-5/199, KERALA STATE HOUSING
BOARD COLONY, MEDICAL COLLEGE P.O., CHEVAYUR AMSOM
DESOM.

2. JEEJA, W/O. SETHUMADHAVAN, AGED 43 YRS,
E-5/199, KERALA STATE HOUSING BOARD COLONY,
MEDICAL COLLEGE P.O., CHEVAYUR AMSOM DESOM.

BY

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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Tr.P.C. NO. 252 OF 2007

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Dated this the 19th day of November, 2007.

J U D G M E N T

This Transfer Petition is filed to transfer O.S.123/06 pending before the 3rd Additional Subordinate Judge, Kozhikode to any of the Subordinate Judge's Court, Kozhikode. The allegation in support of the transfer is that the plaintiffs in the suit sought for time for a counter in an application filed by the defendant for production of documents. It was posted in the next day and disposed of and that the Subordinate Judge refused to entertain many questions and the answers tendered by the witnesses. The learned counsel for the writ petitioner has also produced before me the order in I.A.4148/07 in O.S.123/06 which relates to the reception of documents. The learned Subordinate Judge has written a very considered order therein and he has also applied his mind and it is found by

him that the production of these documents on a belated stage necessitated only on account of the questions put by the learned counsel appearing for the plaintiff in the cross-examination. Therefore, the learned Judge has given his own reasons for reception of documents. Most probably it is aggrieved by that the Transfer Petitioner has moved this application stating that the learned Subordinate Judge has not permitted the plaintiffs' counsel to put questions as desired by him. There are decisions by this Court to the effect that the Court need not be mute witness in the trial of the case and certainly the Court can interfere as and when it find that there is necessity to do so. Just because an application filed for production of document is allowed and the Court is further proceeding with the matter it cannot be a ground for transfer of a case and if indiscriminately the discretion is used then it will affect the credibility of the system and therefore I do not propose to entertain this petition. Therefore, this Tr.P.C. is dismissed.

M.N. KRISHNAN, JUDGE.

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